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LETTER DATED 9 FEBRUARY 2000 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward herewith the positions and comments of the Government of the Federal Republic of Yugoslavia concerning the report of the Organization for Security and Cooperation in Europe entitled "Kosovo/Kossova as Seen, as Told", on the situation of human rights in Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia, during the period from October 1998 to October 1999 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

00-29125 (E) 110200

Annex

Positions and comments of the Government of the Federal Republic of Yugoslavia concerning the report of the Organization for Security and Cooperation in Europe entitled "Kosovo/Kossova As Seen, As Told" on the situation of human rights in Kosovo and Metohija during the period from October 1998 to October 1999

After careful examination of the report of the Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) entitled "Kosovo/Kossova As Seen, As Told", parts I and II, on the human rights situation in Kosovo and Metohija during the period from October 1998 to October 1999, certain questions inevitably arise, questions that have not been answered by its authors. There is, first of all, the question of the purpose of, and justification for, resorting to armed aggression against a sovereign country, in violation of all norms and principles of international law, and secondly the question of respect for the fundamental principles of OSCE.

Reports of OSCE have received great attention from the world public and the media and have again raised serious doubts as to the reasons for and consequences of the NATO aggression as well as to the real record of performance of the international administration and the military presence in Kosovo and Metohija. The Federal Government considers that the data cited and the methodology used in collecting and presenting information need a critical analysis and evaluation, both from the point of view of the truthfulness of the statements and data presented and the method of selecting them, and also from the point of view of the (political) effects to be achieved by them.

A one-sided presentation of facts in the report, which does not at all make use or mention of the findings of the authorities in the Federal Republic of Yugoslavia regarding events that are being reported on, represents an attempt at justifying the NATO aggression against the Federal Republic of Yugoslavia after the event. The very publication of the report by OSCE represents an abuse of that organization, already used as an instrument for political purposes, for a second time (the Kosovo Verification Mission (KVM) presence in Kosovo and Metohija having been used to prepare for the NATO aggression). Such abuse has most seriously undermined the credibility of OSCE, which may have unforeseeable consequences on its prestige and possibilities for future activity.

1. Although it was not the intent of the report, it revealed in a documented fashion that there was no humanitarian crisis in Kosovo and Metohija before NATO aggression and that problems in this Serbian province were at least not so serious as to provoke the most brutal interference in the internal affairs of a sovereign State, a gross violation of its sovereignty and territorial integrity and disrespect of the basic principles of OSCE.

It is clear from the report that, prior to NATO aggression, there was no violence against Albanians in Kosovo and Metohija (except actions against the terrorists of the so-called Kosovo Liberation Army (KLA). These actions of "the

army and paramilitary units were confined to the areas where the so-called KLA had its bases". It is also clear from the report that the activities of the Yugoslav authorities in Kosovo and Metohija were directed against a terrorist and separatist organization which openly advocated "an armed struggle until liberation". It documented illegal activities carried out by Albanian separatists (establishment of parallel institutions and administration; boycotting of elections; and the establishment of the so-called KLA, which is being described as "a paramilitary group of Kosovo Albanians whose purpose is separatism through armed struggle").

Consequently, legitimate reactions of the authorities in the Province against terrorist and separatist activities cannot be described as "repression against the Albanian population". The assertion is not true, either, that "human rights violations were the cause and effect of conflicts in Kosovo and Metohija", because it was well-documented that the terrorist activities of the so-called KLA commanded the appropriate legitimate response of the authorities, aimed at their suppression.

The cited information clearly proves that the tragic plight of the Kosovo population followed "the NATO humanitarian intervention", that is the armed aggression against the Federal Republic of Yugoslavia, in which thousands of people were killed and there was a mass exodus fleeing the bombs. In other words, the "military intervention" was directly responsible for the wave of ethnic cleansing, which, instead of being prevented, is going on to the present day in the presence of the United Nations Interim Administration in Kosovo (UNMIK) and the international security force (KFOR).

2. The relevant authorities of the Federal Republic of Yugoslavia kept the international public and the Chairman-in-Office of OSCE regularly informed of the illegal actions by terrorists and separatists in Kosovo and Metohija (see the set of documents delivered to the Chairman-in-Office, Knut Vollebaek, Minister for Foreign Affairs of Norway, on 1 March 1999).

The terrorist actions of Albanian separatists in Kosovo and Metohija, prior to the consent of the Federal Republic of Yugoslavia to accept an OSCE mission in its territory as a sign of its good will, had assumed such proportions that they required energetic measures by the authorities. In a one-year period, from 1 January to 31 December 1998 alone, in Kosovo and Metohija there were:[1]

- More than 1,885 terrorist attacks, in which 288 persons were killed and 561 wounded;

- One thousand one hundred and twenty-nine terrorist attacks against police personnel and facilities, which left 115 police officers dead and 403 wounded;

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[1] All the information cited in these comments is contained in the records of the competent authorities, including the names of victims, date, place and time of commission of crimes.

- The remaining 756 attacks were made against civilians, with 173 people killed and 158 injured.

During the same period, 308 persons (293 civilians and 15 policemen) were abducted. Of this number 31 civilians and 3 policemen were killed, while 143 abducted civilians and 9 policemen are still unaccounted for.

Following the deployment of the OSCE Verification Mission to Kosovo and Metohija, terrorist activities did not cease. Only in the period from 13 October 1998 to 20 March 1999 (after the agreement reached by the President of the Federal Republic of Yugoslavia, Slobodan Milosević, and United States Special Representative, Richard Holbrooke), a series of terrorist attacks, murders and abductions took place in the presence of KVM, namely:

- One thousand and forty-eight attacks (371 against civilians and 677 against police);

- One hundred and fifty-four people (127 civilians and 27 policemen) were killed;

- One hundred and forty-eight (81 civilians and 67 police officers) sustained serious injuries;

- One hundred persons (93 civilians and 7 police officers) were kidnapped (16 killed: 14 civilians and 2 policemen and the fate of 37 civilians and 4 policemen is yet unknown);

- Fifty-six terrorist attacks on Yugoslav Army forces (2 soldiers killed, 9 seriously and 21 slightly injured).

3. Since its deployment in Kosovo and Metohija in October 1998, KVM openly defended the separatist movement and the terrorist KLA there and adopted a benign and uncritical attitude towards it. This is evidently the reason why the above information was left out of the report, because it will clearly show that there was an increase in terrorist actions during the presence of KVM; that roadblocks were set up hindering freedom of movement; that kidnappings and arms smuggling were frequent occurrences. Moreover, strategically important facilities were marked in this period. In this way, OSCE and its Mission were grossly abused and they played a role contrary to the goals of this Organization.

The report singles out, as the most glaring illustration of the alleged repressive policies of the Government before the aggression, the previously overmagnified and overexploited "events" in the media in the villages of Racak, Rakovina and Rogovo (that are referred to as "executions"). In these villages, according to the report, there were mass killings of "Kosovo Albanians by the Yugoslav/Serbian forces". The report made by the team of independent forensic experts did not confirm the accusations levelled by William Walker, Head of KVM.

The evidence of the crimes that had allegedly been committed in Kosovo and Metohija before the aggression was taken as "eye-witness" statements from refugees in camps in Albanian and Macedonia. In view of the fact that this part

of the report contains most serious accusations levelled at the actions taken by "police, paramilitary and the military" against the civilian population - mostly those of Albanian nationality - (torture, rape, missing persons, arbitrary detention, wanton destruction of property and looting, use of civilians as human shields, forced expulsions, etc.), it would be logical that it also contains findings of Yugoslav authorities concerning the events in question, considering that they were presented in a timely fashion and submitted to KVM. Instead, the drafters of the report have confined themselves to "interviewing eye-witnesses on the ground" and making public their statements as testimonies of "witnesses for the prosecution", thus ignoring the reports of the legitimate authorities, a fact which is both essentially and methodologically unacceptable and cannot help to establish an objective picture of events.

4. One may rightfully raise the question of the credibility of the so-called "evidence of the crimes" committed by police, Yugoslav Army and paramilitary forces in the period during the aggression, from 24 March to 9 June 1999, since KVM withdrew from Kosovo and Metohija on 20 March 1999, that is, before the onset of the aggression, and was not present there while it was happening.

It should be noted that the report did not at all keep track of the crimes committed by the NATO alliance in Kosovo and Metohija in that period, although they were widely reported in international media and well-documented by the competent Yugoslav authorities (see the white paper, part I and II).

The list of crimes and irreparable losses caused by the aggression is endless:

- More than 2,000 civilians died. This figure is not final given that the identification of all victims had not been completed;

- More than 7,000 people were wounded and in most cases they will remain permanently disabled;

- Eighty-two bridges were damaged or destroyed;

- Four hundred and twenty-two school facilities (school buildings, university colleges, student dormitories, etc.) were knocked down or damaged;

- Forty-eight health institutions (hospitals, out-patient clinics, health stations, etc.) were damaged or destroyed;

- Seventy-four television transmitter, relay and repeater sites were demolished or destroyed;

- Essential infrastructure (power plants, transformer yards, power distribution system, oil installations, numerous factories, traffic routes, etc.) were destroyed or severely damaged, as well as great many other civilian facilities (see the white paper);

- Over 2.5 million citizens of the Federal Republic of Yugoslavia have remained without the basic means of subsistence;

- Total material losses resulting from the aggression amount close to US$ 100 billion;

- Total quantifiable losses (owing to the sanctions imposed by the international community, secession of the republics of the former Socialist Federal Republic of Yugoslavia as well as the NATO aggression) in the period from 1991 to 2010 have been estimated at US$ 200 billion. It is worth noting that the sanctions, as a flagrant violation of the basic human rights, have not been devoted any attention in the OSCE report.

Negative effects on the overall development of the Federal Republic of Yugoslavia and the standard of living of its population will be felt for decades to come.

5. Regrettably, the OSCE report does not deal at all with the consequences of the aggression on the enjoyment of fundamental human rights of the entire population of the Federal Republic of Yugoslavia. Contrary to NATO's propaganda machine, which sought to create a picture of mass human rights violations and vulnerability of the Albanian population in Kosovo and Metohija prior to NATO aggression, the report, nevertheless, clearly indicates that following the start of "air strikes", there was chaos, uncertainty and fear (of the bombing) and the population fled in massive numbers, which is something that the Yugoslav authorities cannot, obviously, be blamed for.

Civilian losses inflicted by the NATO aggressors have been completely marginalized. Even if they are mentioned, they are justified by the well-known NATO logic of again blaming the Yugoslav authorities for using "human shields" to protect facilities and equipment. Thus, massive deaths among the Albanian civilian population, references to which could not be avoided, were also blamed on the "Serbian forces" and not attributed to the fact that this was the region where the largest number of bombs had been dropped since the end of the Second World War. During the aggression against the Federal Republic of Yugoslavia:

- Thirty-five thousand sorties were conducted, involving more than 1,000 aircraft and 206 helicopters;

- More than 10,000 cruise missiles were launched;

- Seventy-nine thousand tons of ordnance (156 cluster bombs containing 37,440 bomblets).

The report makes no mention of the documentary evidence on the aerial bombardment nor material losses caused by it. There are no photographs, either, of the aftermath of the strikes and we are talking here about the proportionately most bombed region in the history of warfare. Even the published photographs are not authentic, as evidenced by the bombing of the "Prizren League" building, which was struck down in the aggressors' attack on 28 March 1999 (white paper, pp. 227 and 228). The report wrongfully pointed out

that the building was "destroyed by the Yugoslav security forces in March 1999" (report, p.334). Such examples put all other cited information, the credibility of which may be brought into question, in a relatively different light.

Consequently, the OSCE report, which would otherwise make NATO responsible for the serious crimes against civilians and for breaches of the Geneva Conventions, was grossly abused as a tool to justify the aggression. Its purposes were even defined in NATO language ("preventing Yugoslav military and security forces from continuing repression of civilians and deterring their further military actions against their own population"), in contravention of all OSCE principles, which were not referred to therein.

Rather than condemning NATO aggression, the report deliberately omitted any references to it, using the NATO terms for it such as "intervention", "bombing" or "air strikes" or "air campaign". Most often, only certain dates (before or after 24 March 1999) are mentioned, suggesting that the brutal murders of the civilian population and massive destruction of civilian facilities are the result of the same "repressive policy" continued by other means. An impression may be gained, therefore, that NATO bombs killed no one (but they actually killed 2,000 people) and that Serbian security forces were responsible for all casualties during the "air strikes", which was why they were targeted by NATO.

6. The report also lacks what UNMIK and KFOR obviously do not want to talk about, the politically devastating record of the war, because this region is now less secure than it used to be; ethnic cleansing is continuing unhampered and local administration is not functioning.

Since UNMIK and KFOR took responsibility, massive human rights abuses by Albanian terrorists and terrorist gangs have taken place. This is extremely worrying. Between 10 June 1999 and 6 February 2000 alone, in their presence:

- A total of 4,249 terrorist attacks were made;
- Of this number, 4,030 were against Serbs and Montenegrins and 126 against other ethnic communities;
- Ninety-three attacks were against Albanians;
- Eight hundred and eighty-nine persons were killed;
- Seven hundred and eighty-four persons were wounded;
- Eight hundred and thirty-four persons were abducted and missing (75 killed, 6 escaped, 31 released, 722 still unaccounted for);
- More than 350,000 were expelled;
- More than 50,000 homes were burned down;
- Over 80 churches and monasteries were demolished.

During the same time, more than 200,000 criminals and looters from neighbouring Albania were allowed to enter this Serbian province illegally (see the memorandum of the Government of the Federal Republic of Yugoslavia of 3 November 1999).

7. Despite its efforts to prove the contrary, OSCE cannot conceal the evident conclusion that the tragic plight of the Kosovo population is a direct consequence of NATO aggression; that thousands of people were killed during the aggression and not before it; and that an unimpeded ethnic cleansing of the Province of its Serbs, Roma, Muslims, Turks, Goranci and other non-Albanians is now under way, in the presence of UNMIK and KFOR.

While the report blames the Yugoslav authorities for all problems in the past, it is clear that no one bears responsibility for the current situation there, characterized by a climate of impunity. Terror, ethnic cleansing, organized international crime, drug and arms trafficking, human smuggling, money-laundering, abuse of humanitarian aid, and other criminal activities continue. Concurrently, there is a lack of action to prevent such crimes, the lack of an effective system of protection of the population as well as of the functioning of local administration. The report does not point, as it has done in part I, to the responsibility of office holders in Kosovo and Metohija (i.e. UNMIK and KFOR) or blame them for the present situation. As a result, there is a continuing spiral of crime; an ineffective protection of the basic human rights of non-Albanians and non-functioning local government. In this part, the report only takes note of human rights violations (ranging from murders to expulsions, harassment, intimidation, arson and looting).

The report reveals a number of problems arising from the unworkability of the military and civilian missions in Kosovo and Metohija, notably non-fulfilment of the mandate under United Nations Security Council resolution 1244 (1999). Instead of taking energetic steps and applying existing laws of the Republic of Serbia and those of the Federal Republic of Yugoslavia, UNMIK reacts by issuing appeals, statements and regulations that are not either enforced or are not in conformity with the above-mentioned resolution. The lack of vigorous action by the relevant representatives of the international community makes them accomplices in the crime of ethnic cleansing that is under way. The conclusion to be drawn is that the only thing that members of the international community are seriously concerned for is their own safety and security.

Part II of the report, covering the period following the takeover of responsibility by UNMIK and KFOR, may lead to the conclusion that the current violence against Serbs is massive and systematic in all parts of Kosovo and Metohija, apparently with the intent to scare off the non-Albanian population and create a mono-ethnic Kosovo and Metohija. The key elements of the mandates of UNMIK and KFOR, as defined in Security Council resolution 1244 (1999), have not been implemented, that is to create a secure environment in which all refugees and displaced persons can return home in safety, to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo and Metohija, to maintain a multi-ethnic and multi-confessional character of the Province and to demilitarize the so-called KLA. KFOR and UNMIK have failed to ensure free movement in Kosovo and Metohija and also, with their tolerant attitude towards

the terror of the so-called KLA, are accessories to the blockading and ghettoization of segments of the Serbian and other non-Albanian populations herded into several enclaves in Kosovo and Metohija (Orahovac, Gorazdevac, Kosovo Polje). The report failed to point to the responsibility of those who have undertaken to establish law and order and guarantee security for all citizens. They will not take the consequences for such failure either. Thus, the recognition that UNMIK has been incompetent (or unwilling) to halt the final stages of the ethnic cleansing in Kosovo and Metohija and to establish civil administration is revealed in all its devastating brutality.

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IDENTICAL LETTERS DATED 10 FEBRUARY 2000 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL AND TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to inform you that violations of Iraq's airspace by United States and British aircraft based in Saudi Arabia, Kuwait and Turkey continued between 1 and 7 February 2000 and that the aircraft in question engaged in acts of aggression, reconnaissance activities and acts of provocation, as set forth in the annex hereto.

You are requested to intervene with the United States, the United Kingdom and the countries that provide the facilities for these acts of aggression, namely Saudi Arabia, Kuwait and Turkey, with a view to bringing a halt to actions that, as flagrant violations of the Charter of the United Nations and of international law, pose a threat to the sovereignty and territorial integrity of Iraq.

These actions are continuing to bring death and injury to hundreds of civilians and to cause serious damage to private and public property. The logistic support that Saudi Arabia, Kuwait and Turkey provide to the United States and British forces makes them key partners in the aggression being committed against Iraq, so that they share international responsibility for the consequences of these actions. The Government of the Republic of Iraq affirms its right to seek lawful compensation for the damage being inflicted on its people by these same actions.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Saeed H. HASAN
Ambassador
Permanent Representative

Annex

Violations by United States and British aircraft and damage caused, 1-7 February 2000

1. In the northern region 52 sorties were flown at speeds of 720 to 780 kilometres per hour and at altitudes of 6,000 to 12,000 metres, as follows:

(a) At 1120 hours on 2 February 2000 United States and British F-14, F-15, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 16 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Zakho, Aqrah, Dohuk, Amadiyah, Ayn Zalah, Tall Afar, Irbil and Mosul areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1420 hours, drove them off.

(b) At 1200 hours on 3 February 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 20 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Zakho, Dohuk, Ayn Zalah, Mosul, Irbil and Tall Afar areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1500 hours, drove them off.

(c) At 1045 hours on 7 February 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 16 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Zakho, Dohuk, Mosul, Irbil, Tall Afar, Amadiyah and Aqrah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1350 hours, drove them off.

2. In the southern region 192 sorties were flown at speeds of 720 to 780 kilometres per hour and at altitudes of 9,000 to 13,000 metres, as follows:

(a) At 1050 hours on 2 February 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 34 missions, 18 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 16 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Artawi, Ashbajah, Nasiriyah, Basrah, Samawah, Lasaf, Busayyah, Chabaish, Shatrah, Salman and Qurnah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1158 hours, drove them off.

(b) At 1308 hours on 3 February 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 20 missions, 10 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 10 from Kuwaiti

territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basrah, Artawi, Busayyah, Salman, Lasaf, Jalibah, Qurnah and Ashbajah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1420 hours, drove them off.

(c) At 1247 hours on 4 February 2000 United States and British F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 22 missions, 14 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 8 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basrah, Nasiriyah, Salman, Lasaf, Jalibah, Qurnah and Samawah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1400 hours, drove them off.

(d) At 0950 hours on 5 February 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 60 missions, 38 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 22 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Nasiriyah, Salman, Lasaf, Jalibah, Qurnah, Samawah, Artawi, Amarah, Taqtaqanah South, Nukhayb East, Safwan, Shinafiyah, Rumaythah, Qal'at Salih, Qal'at Sukkar, Busayyah and Shatrah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1705 hours, drove them off.

(e) At 1235 hours on 6 February 2000 United States and British F-14, F-15, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 32 missions, 12 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 20 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Artawi, Nasiriyah, Shinafiyah, Lasaf, Basrah, Samawah, Ali al-Gharbi South and Amarah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1400 hours, drove them off.

(f) At 1045 hours on 7 February 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 24 missions, 6 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 18 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Artawi, Nasiriyah, Salman, Lasaf, Jalibah, Nukhayb, Samawah, Ashbajah, Diwaniyah, Qal'at Salih and Amarah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1350 hours, drove them off.

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ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

MEMORANDUM BY THE SECRETARY-GENERAL

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I. INTRODUCTION

1. By a letter dated 19 November 1999, Judge Stephen Schwebel, the President of the International Court of Justice, pursuant to Article 13, paragraph 4, of the Statute of the Court, informed the Secretary-General of his resignation as a member of the Court effective 29 February 2000. Thus, a vacancy in the Court will occur on 29 February 2000.

2. Judge Schwebel was elected as a member of the Court from 15 January 1981 and was re-elected as from 6 February 1988 and 6 February 1997. His current term of office would have expired on 5 February 2006. According to Article 14 of the Statute of the Court, the vacancy shall be filled by the same method as that laid down for the regular election and the Secretary-General shall, within one month of the occurrence of the vacancy, issue the invitations for nominations provided for in Article 5 of the Statute. According to Article 5, paragraph 1, of the Statute, the invitations for nomination have to be made at least three months before the date of the election, which is, pursuant to Article 14, to be fixed by the Security Council.

3. By a note dated 24 November 1999, addressed to the Security Council, the Secretary-General referred to Judge Schwebel's letter of resignation and drew its attention to Article 14 of the Statute of the Court regarding fixing the date of the election to fill the vacancy in the International Court of Justice (S/1999/1197). Pursuant to article 14 of the Statute of the Court, the Security Council decided, by resolution 1278 (1999) of 30 November 1999, that the election to fill the vacancy should take place on 2 March 2000 at a meeting of the Security Council and at a meeting of the General Assembly at its fifty-fourth session. The General Assembly at its 70th meeting, held on 6 December 1999, decided to reopen consideration of agenda item 15 (c) (see General Assembly decision 54/402 of 6 December 1999 and A/54/PV.70).

4. Pursuant to Article 5, paragraph 1, of the Statute of the Court, the Secretary-General, in a communication dated 30 November 1999, invited the national groups of States parties to the Statute of the Court to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received no later than 7 February 2000. A list of the nominations received by that date and the curriculum vitae of the candidate are transmitted in separate documents to the General Assembly and the Security Council (A/54/751-S/2000/106 and A/54/752-S/2000/107 respectively). The name of the candidate will appear on the ballot papers to be distributed during the election.

5. Article 15 of the Statute of the Court provides that a member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of the predecessor's term. The member elected to replace Judge Schwebel will thus serve until 5 February 2006.

6. The current composition of the Court and the procedure in the General Assembly and the Security Council for filling the vacancy are described below.

II. COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE

7. The current composition of the International Court of Justice is as follows:

President: Mr. Gilbert Guillaume (France)***

Vice-President: Mr. Shi Jiuyong (China)*

Judges: Shigeru Oda (Japan)*
Stephen M. Schwebel (United States of America)**
Mohammed Bedjaoui (Algeria)**
Raymond Ranjeva (Madagascar)***
Géza Herczegh (Hungary)*
Carl-August Fleischhauer (Germany)*
Abdul G. Koroma (Sierra Leone)*
Vladlen S. Vereshchetin (Russian Federation)**
Rosalyn Higgins (United Kingdom of Great Britain and Northern Ireland)***
Gonzalo Parra-Aranguren (Venezuela)***
Pieter H. Kooijmans (Netherlands)**
José F. Rezek (Brazil)**
Awn Shawkat Al-Khasawneh (Jordan)***

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* Term of office expires on 5 February 2003.
** Term of office expires on 5 February 2006.
*** Term of office expires on 5 February 2009.

III. PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL

8. The election will take place in accordance with the following provisions:

(a) The Statute of the Court, in particular Articles 2 to 4 and 7 to 12, and 14;

(b) Rules 150 and 151 of the rules of procedure of the General Assembly;

(c) Rules 40 and 61 of the provisional rules of procedure of the Security Council.

9. In accordance with General Assembly resolution 264 (III) of 8 October 1948, Switzerland, which is a party to the Statute of the Court, but not a Member of the United Nations, has been invited to participate in the General Assembly in electing members of the Court in the same manner as the States Members of the United Nations.

10. On the date of the election, the General Assembly and the Security Council will proceed, independently of one another, to elect a member of the Court to fill the vacancy (Article 8 of the Statute).

11. According to Article 2 of the Statute, judges are to be elected, regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the person to be elected should individually possess the qualifications required, but also that, in the body as a whole, the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

12. The candidate who obtains an absolute majority of votes both in the General Assembly and in the Security Council shall be considered as elected (Article 10, paragraph 1, of the Statute).

13. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors whether or not they vote or are allowed to vote. The electors in the General Assembly are all 188 Member States together with the one non-member State, mentioned in paragraph 9 above which is a party to the Statute of the Court. Accordingly, as at the date of the present memorandum, 95 votes constitute an absolute majority in the Assembly for the purpose of the Court election.

14. In the Security Council, eight votes constitute an absolute majority and no distinction is made between permanent and non-permanent members of the Council (Article 10, paragraph 2, of the Statute).

15. Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly and in the Security Council will indicate the candidate for whom they wish to vote by placing a cross against the name on the ballot paper. Each elector may vote for only one candidate.

16. At the 915th plenary meeting of the General Assembly, on 16 November 1960, a procedural discussion took place as to whether rule 94 (then rule 96) of the rules of procedure of the Assembly should be applied in elections to the International Court of Justice. That rule lays down a procedure for restricted ballots in the event that, after the first ballot, the requisite number of candidates have not obtained the required majority. The Assembly decided that the rule did not apply to elections to the Court and it proceeded to elect the requisite number of candidates by a series of unrestricted ballots. This decision has been followed consistently.

17. If, in the first ballot in either the General Assembly or the Security Council, no candidate receives an absolute majority, a second ballot will be held and balloting will continue in the same meeting until a candidate has obtained the required majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council).

18. Cases have arisen in the Security Council in which more than the required number of candidates have obtained an absolute majority on the same ballot. The practice followed by the Council has been to hold a new vote on all the candidates, and the President of the Council made no notification to the

President of the General Assembly until only the required number of candidates, and no more, had obtained an absolute majority in the Council.

19. When a candidate has obtained the required majority in one of the organs, the President of that organ will notify the President of the other organ of the name of that candidate. Such notification is not communicated by the President of the second organ to the members until that organ has itself given a candidate the required majority of votes.

20. If, upon comparison of the name of the candidate so selected by the General Assembly and by the Security Council, it is found that the result is different, the Assembly and the Council will proceed, again independently of one another, in a second meeting and, if necessary, a third meeting to elect one candidate by further ballots, the results again being compared after one candidate has obtained an absolute majority in each organ. If necessary, the above procedure will be repeated until the General Assembly and the Security Council have given an absolute majority of votes to the same candidate.

21. If, however, after the third meeting, the vacancy still remains unfilled, the special procedure set out in Article 12 of the Statute of the Court may be resorted to at the request of either the General Assembly or the Security Council.

UNITED NATIONS **A S**

General Assembly
Security Council

Distr.
GENERAL

A/54/751
S/2000/106
11 February 2000

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

LIST OF CANDIDATES NOMINATED BY NATIONAL GROUPS

Note by the Secretary-General

1. By a letter dated 30 November 1999, addressed to States parties to the Statute of the International Court of Justice, the Secretary-General drew attention to the vacancy in the International Court of Justice caused by the resignation, effective 29 February 2000, of Judge Stephen M. Schwebel (United States of America). In the same communication, the Secretary-General, in accordance with Article 5, paragraph 1, of the Statute of the Court, invited the national groups of States parties to the Statute to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received no later than 7 February 2000.

2. In accordance with Article 7 of the Statute of the Court, the Secretary-General has the honour to submit to the General Assembly and to the Security Council the candidate nominated by a national group (see annex).

4. The composition of the Court and the voting procedure to be followed in the General Assembly and in the Security Council are contained in a memorandum by the Secretary-General issued as document A/54/750-S/2000/105. The curriculum vitae of the candidate appears in document A/54/752-S/2000/107.

ANNEX

List of nominations by national groups

(As at 7 February 2000)

Name and nationality	Nominated by the national group of
Thomas Buergenthal (United States of America)	Belgium Canada Chile Costa Rica France Germany Hungary Japan Poland Slovakia Switzerland United Kingdom of Great Britain and Northern Ireland United States of America

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UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/54/751*
S/2000/106*
11 February 2000

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

LIST OF NOMINATIONS OF THE CANDIDATES BY NATIONAL GROUPS

Note by the Secretary-General

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* Reissued for technical reasons.

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List of nominations by national groups

(As at 7 February 2000)

Name and nationality	Nominated by the national group of
Thomas Buergenthal (United States of America)	Belgium Canada Chile Costa Rica France Germany Hungary Japan Poland Slovakia Switzerland United Kingdom of Great Britain and Northern Ireland United States of America

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UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/54/751**
S/2000/106**
1 March 2000

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN
PRINCIPAL ORGANS: ELECTION OF
FIVE MEMBERS OF THE INTERNATIONAL
COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

LIST OF NOMINATIONS OF THE CANDIDATE BY NATIONAL GROUPS

Note by the Secretary-General

1. By a letter dated 30 November 1999, addressed to States parties to the Statute of the International Court of Justice, the Secretary-General drew attention to the vacancy in the International Court of Justice caused by the resignation, effective 29 February 2000, of Judge Stephen M. Schwebel (United States of America). In the same communication, the Secretary-General, in accordance with Article 5, paragraph 1, of the Statute of the Court, invited the national groups of States parties to the Statute to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received no later than 7 February 2000.

2. In accordance with Article 7 of the Statute of the Court, the Secretary-General has the honour to submit to the General Assembly and to the Security Council the candidate nominated by a national group (see annex).

3. The composition of the Court and the voting procedure to be followed in the General Assembly and in the Security Council are contained in a memorandum by the Secretary-General issued as document A/54/750-S/2000/105. The curriculum vitae of the candidate appears in document A/54/752-S/2000/107.

** Second reissue for technical reasons.

ANNEX

List of nominations by national groups

(As at 7 February 2000)

Name and nationality	Nominated by the national group of
Thomas Buergenthal (United States of America)	Belgium Canada Chile Costa Rica France Germany Hungary Japan Poland Slovakia Switzerland United Kingdom of Great Britain and Northern Ireland United States of America

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UNITED
NATIONS

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General Assembly
Security Council

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S/2000/106/Add.1
25 February 2000

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GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN
PRINCIPAL ORGANS: ELECTION OF
FIVE MEMBERS OF THE INTERNATIONAL
COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

LIST OF NOMINATIONS OF THE CANDIDATE BY NATIONAL GROUPS

Note by the Secretary-General

Addendum

Further to the note by the Secretary-General dated 11 February 2000 (A/54/751-S/2000/106), containing the list of nominations of the candidate by national groups received by him as of 7 February 2000, the deadline for receiving nominations, the Secretary-General has subsequently received the following additional information:

List of nominations by national groups

Name and nationality	Nominated by the national group of
Thomas Buergenthal (United States of America)	Norway Sri Lanka

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00-31549 (E) 250200

UNITED NATIONS

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General Assembly
Security Council

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A/54/751/Add.2
S/2000/106/Add.2
1 March 2000

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

LIST OF NOMINATIONS OF THE CANDIDATE BY NATIONAL GROUPS

Note by the Secretary-General

Addendum

Further to the note by the Secretary-General dated 25 February 2000 (A/54/751/Add.1-S/2000/106/Add.1), containing information about additional nominations of the candidate by national groups, the Secretary-General has subsequently received the following information:

List of nominations by national groups

Name and nationality	Nominated by the national group of
Thomas Buergenthal (United States of America)	Italy Russian Federation

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00-32240 (E) 010300

UNITED
NATIONS

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General Assembly
Security Council

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S/2000/107
11 February 2000

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GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

CURRICULUM VITAE OF THE CANDIDATE NOMINATED BY A NATIONAL GROUP

Note by the Secretary-General

I. INTRODUCTION

The Secretary-General has the honour to submit to the General Assembly and to the Security Council the curriculum vitae of the candidate nominated by a national group for the election to fill a casual vacancy in the International Court of Justice, caused by the resignation of Judge Stephen Schwebel (United States of America). The nomination of the candidate has been circulated in document A/54/751-S/2000/106. The composition of the Court and the voting procedures to be followed in the General Assembly and in the Security Council are contained in a memorandum by the Secretary-General issued as document A/54/750-S/2000/105.

II. CURRICULUM VITAE

Thomas Buergenthal

I. Present positions:

A. Lobingier Professor of Comparative Law and Jurisprudence; Presiding Director, International Rule of Law Center, The George Washington University Law School (sabbatical 1999-2000);

B. Vice-Chairman, Claims Resolution Tribunal for Dormant Accounts in Switzerland.

II. Previous positions:

A. Academic

Instructor in Legal Method, University of Pennsylvania School of Law, 1961-1962;

Professor of Law, State University of New York (Buffalo) School of Law, 1962-1975;

Fulbright and Jaworski Professor of International Law, University of Texas School of Law, 1975-1980;

Dean and Professor of International Law, Washington College of Law, The American University, 1980-1985;

I. T. Cohen Professor of Human Rights, Emory University School of Law, 1985-1989, Fellow, Carter Centre of Emory University (Director, Human Rights Program);

B. Judicial, quasi-judicial, and investigatory

Judge, Vice President, President, Inter-American Court of Human Rights (1979-1991); Judge, Vice President, President, Administrative Tribunal, Inter-American Development Bank (1989-1994). Member, United Nations Human Rights Committee (1995-1999); Member, United Nations Truth Commission for El Salvador, 1992-1993.

III. Selected professional activities:

A. Public

Chairman, United States Government Delegation to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Specialized Conference on International Education, 1974;

United States expert, UNESCO Meeting of Experts on the Implementation of the 1974 UNESCO Recommendation on International Education, 1976;

Member, Executive Committee, United States National Commission for UNESCO, 1977-1979, 1980-1981;

Chairman, Human Rights Committee, United States National Commission for UNESCO, 1976-1979;

Chief, U.S. Government Representative, UNESCO Executive Board Working Group on Human Rights Procedures, 1977 and 1978;

Member, United States Delegation to UNESCO Executive Board (104th and 105th sessions), 1978;

United States Expert, United Nations ad hoc Interregional Committee on Crime Prevention and Control, The Hague, 1978;

Member, Advisory Board, President's Commission on the Holocaust, 1978-1979;

Vice-President, UNESCO Congress on the Teaching of Human Rights and Chairman, United States Delegation to the Congress (Vienna) 1978;

United States Expert, UNESCO Committee of Experts on the Teaching of Human Rights, 1979;

Public Member, United States Government Delegation, Conference on Security and Cooperation in Europe, Copenhagen, June 1990;

Public Member, United States Government Delegation, Conference on Security and Cooperation in Europe Expert Meeting on Democratic Institutions, Oslo; November 1991;

Member, United States Holocaust Memorial Council, since 1996;

Chairman, Committee on Conscience, United States Holocaust Memorial Council, 1997-1999;

Board of Founders, Costa Rica-United States Foundation, since 1996;

Member, Panels of Conciliators and of Arbitrators, International Centre for Settlement of International Disputes, World Bank, since 1997.

B. Private

Rapporteur, Study Panel on International Human Rights Law and its Implementation, American Society of International Law, 1970-1975;

Member, Board of Directors, International Institute of Human Rights (Rene Cassin Foundation), 1970-1989; Administrative Council, 1990-1994, Strasbourg, France;

Member, Editorial Board, American Journal of Comparative Law, 1966-1977;

Contributor (International Law), Collier's Year Book (annual supplement to Collier's Encyclopedia), 1976-1979;

Coordinator, American Society of International Law Research Project on Helsinki Basket III Problems, 1977;

Member, Executive Council, American Society of International Law, 1977-1980; 1986-1989; Vice President, American Society of International Law 1980-1982; Honorary Vice President, since 1994;

Advisory Committee, 1980-1986, American Law Institute, Restatement on the Foreign Relations Law of the United States; Associate Reporter, 1978-1980;

Member, United Nations Association Advisory Panel on Human Rights, 1978-1979;

Scholar in Residence, United Nations - Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD), San Jose, Costa Rica, 1979-1980;

Chairman, Human Rights Committee, International Law and Practice Section, American Bar Association; 1981-1982; 1991-1992;

Member, Administrative Council, Blaustein Institute of Human Rights;

Member, Kuratorium and Scientific Council, Max Planck Institute for Public International Law, Heidelberg, Germany, since 1984;

Chairman, Planning Committee, International Law Workshop, Association of American Law Schools, 1990;

Associate Senior Editor, Governing Rules of International Law Project, American Society of International Law, since 1990;

Lecturer, Inaugural Session, Academy of European Law, European University Institute, Florence, Italy, 1990;

President, Inter-American Institute of Human Rights, 1980-1992; Honorary President since 1992;

Member, Board of Directors, F. M. van Asbeck Centre for Human Rights Studies, University of Leiden, the Netherlands, since 1991;

Lecturer, Hague Academy of International Law, 1992;

Member, Advisory Board, Brazilian Institute of Human Rights, since 1997; Member, Standing Committee on World Order Under Law, American Bar Association, since 1997;

Vice-Chairman, Academic Council, Institute of Transnational Arbitration, since 1998.

IV. Editorial boards:

American Journal of International Law; Human Rights Law Journal; Europäische Grundrechte Zeitschrift; Revue Universelle des Droits de l'Homme; Encyclopedia of Public International Law.

V. Publications:

A list of books, articles and symposia by the candidate is available in the files of the Secretariat.

VI. Selected awards and honours:

Pro-Humanitas Prize, West-Ost Kulturwerk (Federal Republic of Germany) 1978; 1978 UNESCO Human Rights Prize (First Honorable Mention);

1982 Book Award (First Prize) of the Inter-American Bar Association for Protecting Human Rights in the Americas: Selected Problems (1982);

1987 Distinguished Service in Legal Education Award, New York University Law School Association;

1989 Wolfgang G. Friedmann Memorial Award for Outstanding Achievement in International Law, Columbia University Law School;

1990 Harry Leroy Jones Award for Outstanding Achievements in Foreign and International Law, Washington Foreign Law Society;

1996 The Modern World of Human Rights: Essays in Honor of Thomas Buergenthal (Costa Rica, 1996);

1997 Human Rights Prize, the Jacob Blaustein Institute for the Advancement of Human Rights;

1997 Goler T. Butcher Medal for Excellence in Human Rights, American Society of International Law.

VII. Professional organizations:

American Bar Association, American Society of International Law, American Law Institute, Council on Foreign Relations, German Society of International Law, etc.

VIII. Academic degrees:

B.A., Bethany College, West Virginia, 1957;

Juris Doctor, New York University School of Law (Root Tilden Scholar) 1960;

Master of Laws, Harvard Law School (International Legal Studies) 1961;

Doctor of Juridical Science, Harvard Law School (International Legal Studies) 1968;

Doctor of Laws (hon.), Bethany College, 1981;

Dr. jur. (hon.), University of Heidelberg, Germany, 1986;

Dr. jur. (hon.), Free University of Brussels, Belgium, 1994.

IX. Bar memberships:

State of New York; District of Columbia; United States Supreme Court.

X. Languages:

English, German and Spanish (fluent); French (working knowledge); some Polish.

UNITED NATIONS

A S

General Assembly
Security Council

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A/54/752*
S/2000/107*
11 February 2000

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Fifty-fifth year

CURRICULUM VITAE OF THE CANDIDATE NOMINATED BY NATIONAL GROUPS

Note by the Secretary-General

I. INTRODUCTION

The Secretary-General has the honour to submit to the General Assembly and to the Security Council the curriculum vitae of the candidate nominated by a national group for the election to fill a casual vacancy in the International Court of Justice, caused by the resignation of Judge Stephen Schwebel (United States of America). The nomination of the candidate has been circulated in document A/54/751-S/2000/106. The composition of the Court and the voting procedures to be followed in the General Assembly and in the Security Council are contained in a memorandum by the Secretary-General issued as document A/54/750-S/2000/105.

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Chairman, Human Rights Committee, United States National Commission for UNESCO, 1976-1979;

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Doctor of Juridical Science, Harvard Law School (International Legal Studies) 1968;

Doctor of Laws (hon.), Bethany College, 1981;

Dr. jur. (hon.), University of Heidelberg, Germany, 1986;

Dr. jur. (hon.), Free University of Brussels, Belgium, 1994.

IX. Bar memberships:

State of New York; District of Columbia; United States Supreme Court.

X. Languages:

English, German and Spanish (fluent); French (working knowledge); some Polish.

UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/2000/108
11 February 2000

ORIGINAL: ENGLISH

LETTER DATED 9 FEBRUARY FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Please find enclosed a letter dated 9 February 2000 from Dr. Haris Silajdžić, Co-Chairman of the Council of Ministers of Bosnia and Herzegovina, addressed to you (see annex) regarding his proposal with respect to the Dayton/Paris Peace Accords, entitled "Memorandum on Change". This is not a proposal of the Government of Bosnia and Herzegovina. However, in view of Dr. Silajdžić's current official position and his role as one of the negotiators at Dayton, the proposal has significance and reflects the disappointment of some, or many, with the progress and development of the peace process.

May I ask for your kind assistance in circulating this letter and its annex as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative

Annex

Letter dated 9 February 2000 from the Co-Chairman of the Council of Ministers of Bosnia and Herzegovina addressed to the Secretary-General

It is clear that there are positive results in the implementation of the Dayton Peace Accords, but this is no reason to close one's eyes to the reality of the current situation in Bosnia and Herzegovina. Some of the key aims of the Dayton Accords are still far from being attained. This is especially true of the return of refugees, of the reintegration of Bosnia and Herzegovina, of the establishment of an effective and democratic system of governance and of the economic revival of the country. In the majority of important spheres of life, the situation achieved by war, force and lawlessness is still maintained. The longer the status quo achieved by war is maintained, the more difficult it will be to achieve the anticipated positive changes and outcomes.

It has become obvious that the Dayton Accord itself includes certain structural errors, the consequence of the circumstances in which it arose. At the time the Dayton Accord was initiated, it was contestable, at least to the international players, whether Bosnia and Herzegovina had been the victim of aggression or whether it had undergone a purely civil war. There is now a relevant response to that question, since in many verdicts of the international war crimes Tribunal in the Hague it has been stated that this was an international conflict, which means that Bosnia and Herzegovina was subjected to aggression. The United Nations report on Srebrenica speaks for itself. At the time of signing of the Dayton Accord, the Belgrade regime and its leader were still considered as factors for peace. Today, after the events in Kosovo, after the North Atlantic Treaty Organization (NATO) intervention and the indictment of Milošević by the international war crimes Tribunal, this view appears absurd, and there is no further reason to retain the elements of his greater-state project that were built in to the Dayton Accord.

At the time of signing of the Dayton Accord, significant concessions were made at the insistence of the then Government of the Republic of Croatia and its leader. Recent changes in Croatia have shown that the citizens of Croatia themselves reject the policies of the previous Government both as to domestic and to foreign issues.

At the time the Dayton Accord was drawn up, the war in Bosnia and Herzegovina was considered to be a local conflict, so that peace plans were drawn up within that restricted framework. Four years later, it is understood that it was a regional crisis, and an appropriate framework has been created in the form of the Stability Pact for South-Eastern Europe.

The limited effects of the Dayton Accord and the many fundamental changes in circumstances since it was adopted point to the need to review the entire project, to remedy certain structural defects and to redefine the tactics for its implementation.

It is indispensable to ensure the mass, rapid and secure return of refugees, for which it is a prerequisite to define appropriate solutions and the commitment of all available resources to that end.

It is very important to overcome the extended constitutional crisis, which manifests itself in the blocking and ineffectual functioning of the institutions at all levels, from the municipalities through the entities to the State institutions of Bosnia and Herzegovina. It is unrealistic to expect that the situation can be changed merely by new elections. The Dayton Accord, and in particular its annex 4, sets out a system such that elections even actually perpetuate the balance of power achieved by the war. This has been shown in all the elections so far held, and without certain changes to the structure of the system itself, new elections will also produce similar results. A solution must be found, therefore, in the establishment of normal democratic institutions, in further decentralization on the model of cantonization of the country as a whole and in the establishment of the equal status of all constituent peoples throughout Bosnia and Herzegovina.

It is of vital importance to define a well-thought-out strategy for the economic development of Bosnia and Herzegovina. Because of inconsistencies in the implementation of the Dayton Accord, and because of its component flaws, Bosnia and Herzegovina is still economically unintegrated, which is one of the reasons for the failure to achieve the anticipated results in the sphere of the economy.

For the sake of further consolidating peace and stability, it is important to find appropriate solutions to the issue of the organization of the military, which must be reconstructed and adapted to the standards that are indispensable for integration into European defence systems.

All these results can be achieved in a relatively short period if the concept is reconciled with the changes that have come about and if the international community concentrates its efforts and makes use of the resources at its disposal.

Agreement on this can be reached within the framework of the countries signatory to the Dayton Accord, with appropriate commitment on the part of the Peace Implementation Council and a further expansion of the authority of the High Representative.

Such commitment can within a reasonably short period lead to very positive results, and in particular:

- Enabling Bosnia and Herzegovina to take responsibility for its own destiny, via its own institutions at all levels, and to further consolidate and develop a democratic system and democratic relations;

- Ensuring at least a basic level of protection of the human rights that were violated by war and genocide, the return of refugees and the preservation of the multi-ethnic character of Bosnia and Herzegovina;

- Contributing to the establishment of sustainable peace in the region, in which Bosnia and Herzegovina can become an important factor of reintegration, with the ultimate objective of the region's integration into Europe;

- Stimulating and accelerating positive changes in Serbia, since the present situation in Bosnia and Herzegovina is one of the components "feeding" and sustaining the regime in Belgrade;

- Finally, radical and rapid positive changes in Bosnia and Herzegovina will open the way to a successful conclusion to the mission of the international community within a specific term.

The reasons I have set out were the motivation for my launching the initiative formulated in the Memorandum on Change (see enclosure), for I believe that this is the way to achieve a lasting positive resolution of the crisis in Bosnia and Herzegovina.

Finally, I believe that to hold elections in these circumstances would be to commit yet another error. All indications are that elections will merely prolong the status quo and militate against efforts to bring about fundamental changes.

It is surely unacceptable for the international community to condemn the emergence of right-wing parties on the one hand, while on the other hand accepting, in Bosnia and Herzegovina, the results of genocide.

(Signed) Haris SILAIDŽIĆ

Enclosure

DR. HARIS SILAJDŽIĆ

**THE DAYTON PEACE ACCORD –
A TREATY THAT IS NOT BEING IMPLEMENTED**

MEMORANDUM ON CHANGE

***Bosnia and Herzegovina as it is now is too strong to die,
but too weak to function as a self-supporting state***

Sarajevo, 25 January 2000

THE CURRENT SITUATION

Four years after the signing of the General Framework Agreement for peace in Bosnia and Herzegovina, certain positive results can be seen, above all the fact that it ended the war, and in the stabilization of the peace, in the investment of significant funds dedicated to making good war damage, in freedom of movement and in the implementation of the annexes relating to military aspects.

Positive results have been achieved, primarily, through the active involvement and powerful presence of the international community in Bosnia and Herzegovina, especially of leading western countries and of the European Union.

Any objective assessment, however, must also acknowledge that many treaty obligations deriving quite specifically from the Dayton Accord have not been fulfilled. This is especially true of the unsatisfactory levels of return of refugees and displaced persons. It is clear that there is strong resistance to meeting the commitments relating to returns, the purpose of which is to maintain, contrary to the Dayton Accord, ethnically clean regions. Instead of return, one of the pillars of the Dayton Accord, depopulation is continuing, since more and more refugees are seeking and obtaining asylum and citizenship in European countries or permanently emigrating to overseas countries. Without far greater returns of those who were forced from their homes, the relevance and purpose of the Dayton project as a whole is called into question. Those who obstruct returns reckon that time is on their side, and that with the passage of time crimes will be forgotten and the situation brought about by force will be accepted as the reality.

Another commitment not being fulfilled is the undertaking to protect the human rights standards enshrined in international conventions. Contrary to the Dayton Accord, human rights are being violated throughout Bosnia and Herzegovina, most commonly in the form of discrimination on national, religious or political grounds. The aim of this policy is to confirm the thesis that a multi-ethnic Bosnia and Herzegovina is no longer possible.

The institutions of Bosnia and Herzegovina, established according to the provisions of the Dayton Accord, have been in practice, and continue to be, blocked. Tens of legislative projects, already prepared and urgently needed to normalize the situation and set in motion positive changes, have for some years been prevented from going through the parliamentary procedure, and when they come before the Presidency, the Council of Ministers or the Parliamentary Assembly, their adoption is blocked on the pretext of protecting vital national interests. In fact, the blocking of the institutions is in the interests of those political options that wish to prove that Bosnia and Herzegovina is an impossibility and that the only solution is partition and the absorption of territory into neighbouring states. For this reason the work of the state institutions of Bosnia and Herzegovina looks more like international conferences than the work of the organs of state.

Under pressure from the international community, the majority of political parties and leaders pay lip service to the Dayton Accord, but in practice are revising it, violating its provisions, and impeding its implementation.

The consequences of such conduct are also evident in the tendency to the further economic disintegration of Bosnia and Herzegovina. Privatization, as an essential prerequisite of economic revival, is in practice being effected almost solely on an ethnic basis, and represents yet another form of ethnic cleansing, in the field of ownership.

Disintegrative processes are also occurring in many other fields, and the ethnic concept of education threatens to perpetuate long-term national and religion hatreds in future generations.

The entire situation is also burdened by the fact that there are in effect three independent armies, existing for the sake of maintaining the internal equilibrium achieved by war, rather than for the defence of Bosnia and Herzegovina.

Important decisions of the Peace Implementation Council, particularly those from Sintra and Madrid, are being implemented exceedingly slowly or not at all, except to the extent that the High Representative implements them by imposition.

All this leads to the question: what is the Dayton Accord in international law, or in other words what is the place of international law in the Dayton Accord? Every treaty and constitution is subject to change, to amendment: history offers many examples from the Charter of the United Nations to the Constitution of the United States of America.

The chances of the survival of Bosnia and Herzegovina are constrained by its Dayton architecture: the disequilibrium between its integrity, from the perspective of international law, and its partition, from the perspective of internal law.

Bosnia and Herzegovina as it is now is too strong to die, but too weak to function as a self-supporting state.

FACTS THAT CALL FOR A CHANGE TO THE DAYTON PEACE ACCORD

1. The primary objective of the Dayton Accord was to halt the hostilities in former Yugoslavia and in Bosnia and Herzegovina. Almost all other provisions of the Dayton Accord were subordinate to that aim. The Accord was drawn up and signed in an environment in which the greater-state politics of neighbouring states were still strongly present, and the key protagonists of those policies were signatories to the Accord. Because of compromises with the greater-state politics of neighbouring states, certain provisions that were incorporated into the Accord can now be seen to be so flawed as to call into question the entire project.

Four years after the signing of the Dayton Accord, the situation in the region has fundamentally altered. Greater-state politics in Croatia are discredited. The advocates of new political options in Croatia abjure such poli-

tics and stand for a fundamentally new attitude towards Bosnia and Herzegovina.

In Yugoslavia, or rather in Serbia, greater-state politics is in crisis. The concessions made to such politics in the Dayton Accord are seen to have been a mistake. The international community was finally compelled to repress by military means the destructive action of such politics, generating war crimes and genocide on a massive scale, and their chief protagonist has been accused of war crimes by the International Tribunal in The Hague.

It is an absurdity that elements of the greater-state projects of neighbouring states remain built in to the Dayton Accord, although those policies and their key actors have experienced their debacle and are effectively eliminated from the political stage.

It is illogical not to reconsider the special relations of Bosnia and Herzegovina with neighbouring states, when the majority of western countries, as a result of the imposition of sanctions, have suspended all relations with Yugoslavia and when the new government in Croatia has announced fundamental, positive changes in its policies towards Bosnia and Herzegovina. The Dayton framework even makes it possible, however, to establish special relations with internationally isolated neighbouring countries of Bosnia and Herzegovina.

The Stability Pact for South-Eastern Europe is another fundamentally new element. This is in large part the result, finally, of understanding that the causes of the war were not in Bosnia and Herzegovina itself, but in the greater-state projects of certain countries in the region, and that the only way to resolve the crisis is on a regional basis. That aspect was insufficiently present in Dayton.

The dynamic and quality of change in neighbouring countries, and in the region as a whole, logically point to the need for some reconstruction of the Dayton Accord, with the aim of preserving and strengthening all its relevant positive elements.

2. The Dayton Accord was created with the decisive participation of the international community, and in particular of leading western countries and of the European Union, and there is no doubt that they deserve credit for all the positive results of the Accord.

However, the passage of time has shown that there are also certain flaws in the structure of the Dayton project.

Although it is incontestable that the ruling political parties and their leaders in Bosnia and Herzegovina are responsible for many of the violations of the provisions of and obstruction to the implementation of the Peace Accord, it is for all that not appropriate to reduce the entire problem to the personal aspect. Elections have twice been held, and new people have been elected or appointed to many positions, but this has not essentially altered the balance achieved by war. It is thus worth stating that the constellation set in place by the Dayton Accord (in particular by Annex 4) is flawed and that this constellation will remain until certain individual provisions of the Accord are amended.

Stubbornly to insist on these provisions, as favoured by extreme nationalist political options, is to insist on pointless personal changes. Individual provisions of the Dayton Accord themselves reproduce the relations and the situation achieved by force prior to the Peace Accord, and restrict the possibilities of change.

This creates a vicious circle, since the entry of new political forces on the stage, that will lead to positive changes in these relations, is expected to happen through the electoral process, but the constitutional provisions in fact favour the long-term presence of those very political factors that wish to maintain the status quo and oppose positive change.

3. The return of refugees is the most important measure of implementation of the Dayton Accord and the most important criterion for evaluating the worth of the provisions contained in the Accord. The results of returns so far are not satisfactory. Returns are not taking place equitably, but – in part at least – only in one direction, and returns to the towns and cities are especially poor. The passage of time does not favour return. On the contrary, it discourages returnees, who find themselves obliged to make a life in new surroundings. For example, there are now some 100,000 refugees from Bosnia and Herzegovina seeking citizenship in Austria alone. At the same time, only forty-eight refugees or displaced persons have so far applied to participate in privatization in Republika Srpska. There are cynical attempts to represent the compulsion to make a life in new surroundings as a matter of freedom of choice. This is to draw a veil over the fact that these people were criminally forced to leave their homes and that they are prevented from returning.

If the return of refugees does not reach satisfactory levels, the crimes by which they were forced to leave will be rewarded by the perpetuation of ethnically clean regions, and the multi-ethnic concept of Bosnia and Herzegovina, reaffirmed by the Dayton Accord, will suffer defeat.

To enable refugees to return to their homes, to protect fundamental human rights, to ensure that crime is not rewarded and that the greater-state idea of neighbouring countries has no opportunity to rear its head again, it is essential urgently and radically to reconstruct those elements of the Dayton Accord that are seen to be non-integrative, ineffective, and even partly counter-productive to the return of refugees.

4. Individual provisions of the Dayton Constitution have been shown to be discriminatory and contrary to international standards of human rights and generally accepted democratic principles. These provisions restrict the process of democratization in Bosnia and Herzegovina, as is clearly evident in the draft Permanent Election Law. It is precisely these inadequate constitutional provisions that provide an excuse for the promoters of the Election Law, although the draft Law quite obviously includes provisions that lead to the further disintegration of Bosnia and Herzegovina and favour exclusive nationalist options.

It is very telling that the SDS – as the party that from the very start of the crisis in former Yugoslavia, through the

THE DAYTON PEACE ACCORD – A TREATY THAT IS NOT BEING IMPLEMENTED

Dayton Accord, to the international intervention against Milo{evi}, has rejected all proposals of the international community – now almost unreservedly accepts the proposed Permanent Election Law. It is certain that the SDS has not changed its policies, but has in fact seen in the proposed Law the opportunity to revitalize its position and its policies.

The international community, and in particular the leading countries, as creators and guarantors of the Dayton Accord, must not provide an alibi and legitimacy to such processes. It is for this reason that it is essential to carry out certain corrections to the Dayton Accord, in particular to Annex 4.

Since we are in a situation where the international community must impose certain measures, then it is reasonable that what should be imposed is European standards, and not a retrograde concept. This would open up the possibility of a dynamic Europeanization of Bosnia and Herzegovina, which is the final positive objective. Such an approach would mean a paradigm shift in a positive direction, on the part of western leaders, towards Bosnia and Herzegovina.

5. Taking everything into consideration, the go-slow, step-by-step policy of implementation of the Dayton Accord has reached the end of its potential. If the Dayton project is not to be transformed into its own opposite, it is essential to speed up its implementation significantly, and by reconstructing individual elements to make it relevant in essence to the current situation.

This is the way to preserve the long-term values proclaimed by the Dayton Accord – building democratic institutions, establishing the rule of law, respecting human rights, the market economy, the multi-ethnic character of Bosnian-Herzegovinian society, the full protection of the national identity and equality of her peoples, the preservation of the territorial integrity, sovereignty, political independence, and international continuity of Bosnia and Herzegovina, as well as a high degree of internal decentralization.

These values and principles of the Dayton Accord should not be called into question, as they will be by the stubborn insistence on the unchangeability of specific inadequate and flawed provisions that are in fact contrary to the positive essence of the Dayton Accord.

PROPOSALS

I. The General Framework Agreement for Peace in Bosnia and Herzegovina is a binding treaty, so that the question of its correction and reconstruction does not diminish the commitment to apply its provisions until changes have been effected in such a way as to give them their legal and political validity.

Merely initiating a process of critical review and of upgrading individual provisions is not contrary to any single provision of the Dayton Accord. It is without foundation, and illogical, to reject and to condemn transparent and principled initiatives for the review and reconstruction of the Dayton Accord, while at the same time tolerating those who verbally support but in practice violate and obstruct the Dayton Accord.

The proposal of the Peace Implementation Council and observer countries, guarantors of the Accord, critically to evaluate individual elements of the Accord that have been shown to be inadequate and to seek and propose better and more acceptable provisions that do not call into question the fundamental principles and positive values of the Dayton Accord, is legitimate and politically justified.

II. Efforts must be directed towards solutions that will correct, upgrade or amend individual provisions of Annexes 4 and 7 with the aim of:

- bringing about rapid, mass returns of refugees and displaced persons;
- building democratic institutions on the principle of establishing the rule of law and respecting human rights;
- achieving equal status and rights for all three constituent nations throughout Bosnia and Herzegovina;
- enabling the establishment and effective operation of all those institutions of Bosnia and Herzegovina that are essential for the protection of the integrity and sovereignty of the country and its regional and European integration;
- removing national discrimination from the electoral system and eliminating elements that favour extreme and nationally exclusivist political options;
- underpinning the economic reintegration of the country and establishing a single market in Bosnia and Herzegovina, and accelerating the privatization process without discrimination on national or any other grounds;
- initiating a process of further decentralization on the cantonal model throughout Bosnia and Herzegovina;
- finding a way to integrate all military units throughout Bosnia and Herzegovina;
- ensuring relations of equality with neighbouring countries, according to generally accepted principles of international law and in accordance with the new concept of regional stability.

III. The concept of reviewing and upgrading individual provisions must be directed towards establishing the conditions for effective moves that will rapidly produce positive results in the implementation of the Dayton Accord, creating a stable situation in Bosnia and Herzegovina and enabling the military mission of the international community in Bosnia and Herzegovina to end within a reasonably short period. At the same time, a dynamic must be defined that will lead to the successful conclusion of the commitments of the international community in regard to the civilian implementation of the Dayton Accord. The final outcome, then, must be the qualitative internal transformation of Bosnia and Herzegovina and her integration into Europe.

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11 February 2000

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LETTER DATED 10 FEBRUARY 2000 FROM THE REPRESENTATIVES OF BOSNIA AND HERZEGOVINA, CROATIA, SLOVENIA AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The Governments of Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia and the Republic of Slovenia have taken note of the letter dated 13 December 1999 signed by Ambassador Jovanović of the Federal Republic of Yugoslavia (Serbia and Montenegro) and addressed to the President of the Security Council (S/1999/1245).

Four of the successor States wish to stress that, ever since the dissolution of the former Socialist Federal Republic of Yugoslavia, they have always maintained a constructive attitude and willingness to solve the State succession issues to the former Socialist Federal Republic of Yugoslavia through the negotiations held under the auspices of the international community, on the basis of the equality of all five successor States and other relevant principles and norms of international law. To this end four of the successor States have throughout the negotiations accepted several proposals of the international community aimed at reaching a settlement of the succession issue.

On the other hand, the Federal Republic of Yugoslavia (Serbia and Montenegro) has so far maintained an unconstructive attitude. It has been rejecting the equal rights of all five successor States and has not accepted the proposals mae by Sir Arthur Watts, special negotiator, in the framework of the Peace Implementation Council. Furthermore, the Federal Republic of Yugoslavia (Serbia and Montenegro) has insisted on the position that it represented the political and legal continuity of the former Socialist Federal Republic of Yugoslavia, which has dissolved and ceased to exist, as established, inter alia, by the relevant resolutions of the Security Council and the General Assembly and the opinions of the Arbitration Commission of the European Union/United Nations Conference on the Former Yugoslavia. The Federal Republic of Yugoslavia (Serbia and Montenegro) has thus hindered any possible progress in the negotiations.

In view of the expressed readiness of the Federal Republic of Yugoslavia (Serbia and Montenegro) to resume the States succession negotiations, which were suspended, and in the hope that the Federal Republic of Yugoslavia (Serbia and Montenegro) will show a more genuine and more constructive attitude and

willingness to reach an agreement within a short period of time, four of the successor States reconfirm their readiness to solve promptly the issue of State succession to the former Socialist Federal Republic of Yugoslavia, on the basis of the equality of all five successor States. The settlement of the issue of succession to the former Socialist Federal Republic of Yugoslavia would contribute to political stabilization, economic cooperation and the improvement of relations.

We should be grateful if you would have the present letter circulated as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative of
Bosnia and Herzegovina

(Signed) Ivan ŠIMONOVIĆ
Ambassador
Permanent Representative of
the Republic of Croatia

(Signed) Naste ČALOVSKI
Ambassador
Permanent Representative of
the Republic of Macedonia

(Signed) Samuel ŽBOGAR
Chargé d'affaires a.i.
Permanent Mission of the
Republic of Slovenia

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LETTER DATED 11 FEBRUARY 2000 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have been instructed by my Government to bring to your attention some of the most conspicuous instances of the violation of, or the failure to implement, the provisions of Security Council resolution 1244 (1999) of 10 June 1999 by the international security and civil presences since their deployment in Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia, eight months ago.

1. The United Nations Interim Administration in Kosovo (UNMIK) and the Kosovo Force (KFOR) have failed to demilitarize "the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups" (paras. 9 (b) and 15) and to establish "a secure environment" (para. 9 (c)). As a result, terrorism in the Province has escalated at an unprecedented pace, so that the number of terrorist attacks since the arrival of KFOR and UNMIK has increased 11-fold: 4,249 terrorist attacks, mainly against Serbs and other non-Albanians, have been committed in the period from 12 June 1999 to date, in which 889 persons have been killed, 784 wounded and 834 abducted.

The escalation of ethnic Albanian terrorism is evidenced by the upsurge in the number of terrorist attacks committed recently: the shelling of the Serbian village of Gorazdevac on 7 January, the gruesome killing of the four members of the Muslim Skenderi family in Prizren on 11 January, the killing of 3 Serbian returnees in the village of Pasjane on 16 January, the mortar attack on a bus of the Office of the United Nations High Commissioner for Refugees (UNHCR), ferrying Serbs, on 2 February in which two persons were killed and several wounded, the throwing of a hand grenade in a cafe in Kosovska Mitrovica on 3 February in which 30 Serbs were wounded, armed attacks on the Serbian villages of Banje, Svinjare and Suvo Grlo on 5 February, the attacks on Lipljan and Bresje on 7 February and the mortar attack on another UNHCR bus, ferrying Serbian returnees, in the village of Staro Gacko near Lipljan on 9 February. These atrocities have enraged the Serbian community throughout the Province and shattered their trust in the ability and will of the international presences to provide the protection mandated by the resolution.

Ethnic Albanian terrorist separatists are also responsible for the destruction of more than 50,000 homes and a campaign of wiping out the Serbian

historical heritage in Kosovo and Metohija. Eighty-two (82) churches and monasteries have been destroyed or burned down, as well as a large number of monuments to stalwarts of Serbian culture and history.

Turning a blind eye to these atrocities by KFOR and UNMIK has accounted for the ethnic cleansing of more than 350,000 Serbs, Montenegrins, Roma, Muslims, Turks, Goranci and other non-Albanians.

2. By his regulations, aimed at severing Kosovo and Metohija from the constitutional, legal, economic, customs, monetary and banking systems of the Federal Republic of Yugoslavia and the Republic of Serbia, the Special Representative of the Secretary-General of the United Nations in Kosovo and Metohija and head of UNMIK has acted against "the commitment ... to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia" (tenth preambular para.) and "the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia" (annex 2, para. 8), as well as against his own mandate. In wanton disregard of the provisions contained in the said paragraphs, the Special Representative and head of UNMIK has illegally and without consulting legal representatives of the Republic of Serbia and the Federal Republic of Yugoslavia established the so-called Interim Administration Council, a de facto provincial "Government", comprised exclusively of Albanians, mostly leaders of the KLA and Albanian separatist parties, in an attempt to legalize an ethnically pure Kosovo and Metohija and sever its ties with the Republic of Serbia and the Federal Republic of Yugoslavia.

The establishment of the missions of some countries in Kosovo and Metohija without the consultation and agreement of the Government of the Federal Republic of Yugoslavia and the recent proposal for a draft regulation of the Special Representative of the Secretary-General of the United Nations and head of UNMIK, entitled "Immunities and Privileges Accorded to Foreign Government Liaison Offices in Kosovo", providing for the possibility of foreign States to open their liaison offices in Kosovo and Metohija, grossly violate the Charter of the United Nations, the Vienna Conventions on diplomatic and consular relations and the Convention on the Privileges and Immunities of the United Nations, as well as the international practice in this field.

By undertaking to carry out civil registration and prepare elections in Kosovo and Metohija without the participation of the competent authorities of the Republic of Serbia and the Federal Republic of Yugoslavia and in the conditions of terror against, and the ethnic cleansing of, Serbs and other non-Albanians and the illegal presence in this Serbian Province of more than 200,000 Albanian citizens from Albania proper or from abroad, UNMIK and its head have acted not only against the said provisions of the resolution, but also against the democratic principles relative to the holding of free and fair elections all over the world.

By issuing personal identification documents UNMIK has encroached upon one of the basic prerogatives of sovereign States.

By constructing military bases and conducting military exercises in the sovereign territory of the Federal Republic of Yugoslavia without the consent of the Government of the Federal Republic of Yugoslavia, KFOR (NATO) is in flagrant

violation of the resolution and in support of ethnic Albanian terrorism and separatism, destabilizing the entire region.

3. KFOR and UNMIK have failed to establish "a secure environment in which refugees and displaced persons can return home in safety" (para. 9 (c)) and to ensure a "safe and free return of all refugees and displaced persons" (annex 1, fifth subparagraph, and annex 2, para. 7). As a result, the remaining Serbs in this Serbian Province have been subjected to constant terror and provocations and herded into several enclaves. The most striking evidence is provided by the months-old blockade of Orahovac by ethnic Albanian terrorist separatists who have turned the Serbian part of this town into a Nazi-like ghetto.

4. By failing to ensure "public safety and order" (para. 9 (d)), KFOR and UNMIK have become responsible for lawlessness and chaos and accomplices in the ethnic cleansing and genocide committed against the Serbian people in the cradle of its State and civilization. Turning a blind eye to these practices, KFOR and UNMIK have removed the prospect of ever reaching the stated goal of the international community of preserving the multi-ethnic, multi-religious and multicultural nature of this Serbian Province.

5. By failing to secure the international borders of the Federal Republic of Yugoslavia in the section of Kosovo and Metohija towards Albania and Macedonia, KFOR has enabled the influx of over 200,000 citizens of foreign States, predominantly of Albania. A large number of these illegal immigrants are linked to organized international crime and terrorism, narco-mafia, illicit trade in arms, human smuggling, juvenile crime and prostitution and are responsible for the criminalization of Kosovo and Metohija.

6. The postponement of the return of the Army of Yugoslavia and Serbian police personnel is in outright violation of the resolution (annex 2, para. 6) and can only serve to encourage ethnic Albanian terrorist separatists in the pursuit of their goals.

In bringing these instances of the violation of, and the failure to implement, some of the most important provisions of Security Council resolution 1244 (1999) by the international security and civil presences in Kosovo and Metohija, I take the opportunity to reiterate the demand of the Government of the Federal Republic of Yugoslavia that the Security Council take most energetic steps to ensure the implementation of the resolution and to redress the present situation.

To that end, the Government of the Federal Republic of Yugoslavia demands that the illegal regulations of the Special Representative of the Secretary-General of the United Nations be rescinded and that the functioning of the State and public services, such as the customs and border regimes, PTT, the power supply system, railways and banking, be brought back in accord with the laws of the Republic of Serbia and the Federal Republic of Yugoslavia. The Government of the Federal Republic of Yugoslavia also demands that the Yugoslav border, customs and passport control authorities return to the Yugoslav international borders in the section of Kosovo and Metohija.

In posting the demands, the Government of the Federal Republic of Yugoslavia wishes to point out that it will consider null and void and without any legal effect all decisions and regulations of the international security and civil presences in Kosovo and Metohija which are contrary to Security Council resolution 1244 (1999).

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIĆ
Chargé d'affaires a.i.

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LETTER DATED 13 FEBRUARY 2000 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Because of the dramatic deterioration of the situation of the Serbs and other non-Albanians in Kosovo and Metohija, the autonomous province of the Yugoslav constituent republic of Serbia, on Friday, 11 February 2000, I sent you a letter requesting, upon the instructions of my Government, an urgent meeting of the Security Council to consider necessary measures to put, inter alia, an end to the present deterioration and to prevent the terror of ethnic Albanian terrorists and extremists in the future.

The ongoing massacre in Kosovska Mitrovica has made the security situation in Kosovo and Metohija even more dramatic and dangerous and the request for energetic action by the Security Council even more justified and urgent.

Today, Sunday 13 February 2000, ethnic Albanian terrorists have begun concentrated armed attacks on the northern part of Kosovska Mitrovica in which Serbs live as a majority population. The attacks, continuing at the time of the writing of the present letter, are carried out from the automatic and other weapons from the direction of Bosnjacka Mala, Suvo Grlo and the River Ibar bridge. By noon today (local time) a large number of Serbs had been severely wounded in an organized massacre. Kosovo Force (KFOR), as a whole, has shown neither readiness to prevent, nor has it been efficient preventing the terrorists of the "Kosovo Liberation Army" (KLA) from resorting to gruesome, genocidal terror aimed at expelling the remaining Serbs also from this area of their largest concentration.

Not only do parts of KFOR not take measures to prevent the "KLA" terrorists from committing those genocidal acts, they rather, for all practical purposes, provide them a safe passage for attacks on peaceful civilians in northern Kosovska Mitrovica.

The present tragic situation is a result of a systematic violation of Security Council resolution 1244 (1999) of 10 June 1999 and the Military Technical Agreement, a failure of KFOR and the United Nations Interim Administration in Kosovo (UNMIK) to carry out their mandates, including the obligation to demilitarize and disarm the "KLA", and their continued countenance

of terrorism and separatism under the aegis of the United Nations, to which my Government has drawn the attention of the Security Council on many occasions, unfortunately without results.

Following today's dramatic deterioration of the situation of Serbs in Kosovska Mitrovica, it is imperative that the Security Council take energetic and urgent action to put an immediate end to the ongoing, and to forestall future, attacks of armed ethnic Albanian terrorists on the unprotected Serbian population. To that end, I have been instructed by my Government to reiterate its request for an urgent meeting of the Security Council. If the Security Council fails to take prompt and energetic action, even in the present tragic situation, the failure might result in much larger and unforeseeable consequences. I also reiterate the request of my Government that the obligation of demilitarizing and disarming the "KLA" in deed rather than in word be carried out without delay and that security to all residents in Kosovo and Metohija be guaranteed.

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIĆ
Chargé d'affaires a.i.

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S/2000/112
14 February 2000

ORIGINAL: ENGLISH

LETTER DATED 10 FEBRUARY 2000 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to Security Council resolution 1284 (1999) adopted on 17 December 1999. In paragraph 14, the Security Council requested the Secretary-General to appoint a high-level coordinator for compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third country nationals or their remains, as well as the return of all Kuwaiti property, including archives seized by Iraq.

After conducting consultations with parties concerned, I have appointed Ambassador Yuli M. Vorontsov of the Russian Federation to this position at the level of Under-Secretary-General. I should be grateful if you would communicate this matter to the members of the Security Council.

(Signed) Kofi A. ANNAN

00-29750 (E) 140200

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/2000/113
14 February 2000

ORIGINAL: ENGLISH

LETTER DATED 14 FEBRUARY 2000 FROM THE PRESIDENT OF THE SECURITY COUNCIL ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to inform you that your letter dated 10 February 2000 (S/2000/112) concerning the appointment of Mr. Yuli M. Vorontsov (Russian Federation) as your high-level coordinator pursuant to paragraph 14 of resolution 1284 (1999) of 17 December 1999, has been brought to the attention of the members of the Security Council. They take note of the appointment.

(Signed) Arnoldo Manuel LISTRE
President of the Security Council

00-29756 (E) 140200

UNITED
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GENERAL

S/2000/114
14 February 2000
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 10 FEBRUARY 2000 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to bring to your attention the statement on Lebanon issued on 9 February 2000 by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) António MONTEIRO
Permanent Representative of Portugal
to the United Nations

00-29786 (E) 140200 140200

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Annex

[Original: English and French]

Statement on Lebanon issued on 9 February 2000 by the Presidency of the European Union on behalf of the European Union

The European Union has been following the situation in southern Lebanon very closely and expresses its deep concern at the escalation of hostilities, its regret at the deaths and injuries which this has caused and its sympathy for the injured and the bereaved families. In response to attacks on its forces Israel has launched air attacks against the Lebanese infrastructure, causing Lebanese civilian casualties. In this context, the European Union recalls that the April 1996 understanding, in particular, aims to protect civilians from attack and the Union regrets any breach of this understanding. This escalation endangers recent progress in the peace process and the prospects of peace negotiations resuming on the Syrian and also on the Lebanese track.

The European Union calls on all sides to show restraint and to observe strictly the terms of the ceasefire understanding of April 1996, and calls for the early convening of the Monitoring Committee to secure a de-escalation of tension and to prevent further violations of the understanding.

These incidents confirm the urgent need for renewed efforts to achieve a lasting peace in the region, including implementation of United Nations Security Council resolution 425 (1978).